

From: Abhay Padgaonkar
Date: August 31, 2021
Docket: APS 2019 APS Rate Case (E-01345A-19-0236)
Re: The 2021 Paul Walker Sequel. 'Wall Street Sharks II: Supervillains to Saviors'

Dear Chairwoman Márquez Peterson and Commissioners:

Oh, how the Wall Street sharks have gone from being supervillains to saviors in just five years!

In July 2016, Paul Walker produced a video supporting a controversial Solar Partners program, part of APS's pending rate case at the time, in which then-commissioner Tom Forese (elected with APS's dark-money campaign¹) participated. Even CEO Jeff Guldner (then a Senior Vice President) appeared in the video, which showed **Wall Street sharks** chasing toy people meant to depict solar customers being taken advantage of. When asked about being part APS's undue influence on the Commission, Mr. Walker responded: *"That never meant he (Forese) was predetermining a cost in a rate case. This is just typical political crap."*²

Fast forward to 2021 and the Wall Street sharks have become Arizona's saviors — at least in Mr. Walker's book. In fact, he chastises Commissioners for throwing regulatory roadblocks in APS's earnings growth potential path and making the Wall Street sharks crosswise. C'mon Commissioners! How dare you offend the Wall Street sharks?

Three simple inquiries confirm that it's an *ex parte* communication to benefit APS — with a potential threat

By Whom? APS has admitted to being a client of Paul Walker's company.³ Paul Walker (an ex-employee at the ACC who should have known better) is a **registered lobbyist** at the ACC since **7/31/18**.⁴ His representation of APS is *supposed to have ended on 1/31/21* (the record was somehow last modified on **7/8/20**) and yet Mr. Walker is still advocating for APS. The Commission must fully investigate these discrepancies along with the APS-Paul Walker connection, and most importantly, **make sure that ratepayers are not paying a single penny** toward his lobbying fees that APS (or others) may have paid, and is possibly continuing to pay.

Paul Walker	
Active Registration	Registration Date: 7/31/18, 4:11 PM
Lobbyist ID: 68	Last Modified: 7/8/20, 3:54 PM
Theresa LLC	1310 E Peoria Rd Phoenix, AZ 85042 (780) 370-3430
Public Service Corporation Parties Represented	
Central Water Resources	21410 North 19th Avenue, Suite 220 Phoenix, AZ 85027 (480) 360-7776
Arizona Public Service	400 N 9th Street Phoenix, AZ 85004 (602) 370-7171

For Whom? Whether the email Mr. Walker sent contains a copy of his most recent update on the Arizona regulatory climate is immaterial. That Mr. Walker has disseminated the updates to a broad audience is equally immaterial. The fact remains that neither the cover email nor the attachment were on the public record of a contested proceeding. Because they are now public, doesn't absolve him or APS. Whether it was not "prepared in conjunction with, for, or on APS's behalf" is immaterial. **The unauthorized communication by a lobbyist was prepared for APS's benefit.**

What? Whether other Arizona utilities are Mr. Walker's clients is immaterial. That it includes investment analysts' opinions given to him by his Wall Street "friends" is also immaterial. APS is in a fully-litigated rate case for the first time in a long time.⁵ The express purpose of his latest email is to exert non-public influence on the commissioners. An older version included in the Costs of Inconsistency whitepaper⁶ available on website theseusllc.net, mentions **APS 25 times and PNW more than 50 times**. What else could his specific intent be in bringing up SCR disallowance, RUCO recommendations, and cost of debt and equity issues — all of which were fervently argued by APS's experts? More than just spam emails or lobbying (which is Mr. Walker's right if it is on the public record) or even the unauthorized communications, the most worrisome aspect is the potential threat in his email to the Chairwoman:

"APS is now expected to have to file a rate case within a year after its decision becomes final — and to have to litigate extensively on the SCR disallowance."

¹ Welch, D. (2019, April 2). APS admits it spent big money electing regulators in 2014. Azfamily.com.

https://www.azfamily.com/news/politics/arizona_politics/aps-admits-it-spent-big-money-electing-regulators-in-2014/article_7ebdaefe-55ad-11e9-86b1-a3f29b8c7952.html

² Randazzo, R. (2016, July 29). Democrats complain APS solar issue being prejudged. *The Arizona Republic*.

<https://www.azcentral.com/story/money/business/energy/2016/07/28/democrats-complain-aps-solar-issue-being-prejudged/87594622/>

³ APS response to the Chairwoman at: <https://docket.images.azcc.gov/E000015382.pdf>

⁴ ACC Registered Lobbyist search at: <https://efiling.azcc.gov/public-records/lobbyist/detail?id=67b17ef6-654f-4f41-bc4b-c448ef251e19>

⁵ The Chairwoman **must not** coerce a settlement from the dais by giving more weight to joint filings from "otherwise traditionally opposing parties."

⁶ "Theseus The Costs of Inconsistency June 2021 at: <https://theseusllc.net/articles-and-publications>

Arizona will face dire consequences if the Commission fails to rubberstamp APS's request, really?

Let me address the substance (or lack thereof) of Mr. Walker specious argument that if the Commission doesn't genuflect before the Wall Street sharks, the sky will fall on the ratepayers. He suddenly seems to value opinions of Wall Street sharks he derided five years ago. (Question: If the analyst reports are "publicly available," why doesn't Mr. Walker cite them, but instead gets them from "friends" of his on Wall Street as a courtesy?)

The Arizona Supreme Court in *Ariz. Corp. Comm'n v. State ex rel. Woods*⁷ said: "**The Commission was not designed to protect public service corporations and their management but, rather, was established to protect our citizens from the results of speculation, mismanagement, and abuse of power.**" The Court presciently noted that abuses are "**inherent in the public utility holding company structure**" necessitating "**a balancing of the investor and consumer interests.**" Don Brandt openly testified to the ACC in Sep. 2019 that APS management's "first allegiance" was to the shareholders who own the company,⁸ and he certainly acted as such.

Wall Street quadrupled the PNW stock — from a low of \$23.00 in 2009 to a high of \$92.33 in 2018 — which enabled



Pinnacle West to create **\$8.8 Billion** in Total Shareholder Value from 2009-2018 aided by an assist from corrupt commissions it had bankrolled. No Wall Street shark shed a tear about the fact that APS's residential rates had skyrocketed by more than **30%** from 2008 (10.88 cents/kWh) to 2018 (14.16 cents/kWh) — at a growth rate significantly higher than inflation — despite the average and total residential usage had, in fact, declined. By 2018, APS's residential rate was **21%** higher than SRP's, **13%** higher than TEP's, and **41%** higher than UNS's residential rate, according to the EIA price data.⁹ But the Wall Street sharks are *now* worried about an environment of "consumer advocacy" and "an effort on the part of the commission to control rates"?¹⁰ Life was sure good when the commission failed to control rates.

Wall Street sharks celebrated these achievements in Total Shareholder Return: "Since May 1, 2009, Pinnacle West has delivered an **annualized TSR of 17.1%**, exceeding the annualized returns of the S&P 1500 Electric Utilities Index of 11.1% and the S&P 500 Index of 13.9%."¹¹ PNW had "**increased its dividend for the 7th consecutive year**, by 6%." They paid then-CEO Don Brandt **\$14.5 million** for 2018 to make him the **3rd highest** paid CEO in Arizona.¹² Sadly, that same year, APS cut off power more than **110,000 times** for non-payment (including Stephanie Pullman's) and left **1 in 10 customers in the dark**.¹³ In the tug of war that is ratemaking, when investors win, ratepayers lose! Mr. Walker knows this because he says, "those investors likely don't care about Arizona's future"¹⁴ — and yet, he tries to gaslight us into believing that what's good for the Wall Street sharks is also good for Arizona's ratepayers.

WACCy: To prove his point, Mr. Walker reports in his white paper that at least \$672 million in funding is provided to Arizona utilities every year, a vast majority coming from Wall Street investors, with the highest portion (\$277 million) going to APS. Then, as a red herring, he concocts a doomsday scenario in which "**Arizona utilities won't be**

WACC Investment	Cap Structure Debt	Debt Cost	Debt Repayment Period	Cap Structure Equity	Equity Cost	WACC Cost
\$ 672,000,000	50%	6%	\$336,000,000	50%	8.25%	6.88%
	60%	6%	\$403,200,000	40%	8.25%	6.75%
	70%	6%	\$470,400,000	30%	8.25%	6.62%
	80%	6%	\$537,600,000	20%	8.25%	6.50%
	90%	6%	\$604,800,000	10%	8.25%	6.38%
	100%	6%	\$672,000,000	0%	8.25%	6.25%

able to sell stock"¹⁵ and will be forced to increase their use of debt at **6% debt cost from 50% to 70% of their capital expenditure needs**. He then calculates the increase in Weighted Average Capital Costs as \$3.7 million. The APS portion would be about \$1.52 million in what he describes as "unavoidable costs to ratepayers." And the snake oil Mr.

Walker peddles to the Commission is this: **Arizona will face dire consequences if the Commission doesn't approve imprudent SCR investments, reward APS with 10% ROE, and authorize \$169 million in revenue requirement, an amount 111 times more than the \$1.52 million in doomsday costs**. Ignore him and install an email spam filter.

⁷ *Ariz. Corp. Comm'n v. State ex rel. Woods* at: <https://law.justia.com/cases/arizona/supreme-court/1992/cv-91-0082-sa-2.html>

⁸ Don Brandt Testimony to the ACC on 9/4/2019, 3:22:09 mark, at: https://azcc.granicus.com/player/clip/3657?view_id=3&redirect=true&entrytime=12129

⁹ EIA average price data available at: https://www.eia.gov/electricity/sales_revenue_price/

¹⁰ See the question by Paul Patterson of Glenrock Associates in Pinnacle West Q2 2021 Results - Earnings Call Transcript at:

<https://seekingalpha.com/article/4445686-pinnacle-west-capital-corp-pnw-ceo-jeffrey-guldner-on-q2-2021-results-earnings-call>

¹¹ Pinnacle West 2019 Proxy Statement at: http://s22.q4cdn.com/464697698/files/doc_financials/annual/2019/2019-Proxy-Statement-Web-Ready.pdf

¹² Wiles, R. (2019, June 27). Pay for Arizona CEOs hit a new record in 2018 — see who made the most. *The Arizona Republic*.

<https://www.azcentral.com/story/money/business/economy/2019/06/27/arizona-highest-paid-ceos-set-new-earning-record-2018/1516937001/>

¹³ Roberts, L. (2019, June 6). APS cut power to poor customers 110,000 times last year while raking in eye popping profit. *The Arizona Republic*.

<https://www.azcentral.com/story/opinion/op-ed/laurieroberts/2019/06/06/arizona-public-service-rate-left-poor-customers-dark/1368624001/>

¹⁴ "Theseus The Costs of Inconsistency June 2021", 5-6 at: <https://theseusllc.net/articles-and-publications>

¹⁵ Fortis (FTS) and Pinnacle West (PNW) have 471 million and 113 million shares outstanding and a market cap of \$21.6 billion and \$8.7 billion, respectively.